IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

WP(C).No. 35338 of 2007(F)

AGAINST THE ORDER DATED 04/01/2000 IN CLAIM PETN.16/2002 IN ID.42/1997 of LABOUR COURT, KANNUR

PETITIONER:

K.V. NARAYANAN, AGED 51 YEARS,
S/O. VELAYUDHAN, DRIVER, CENTRAL PUBLIC WORKS DEPARTMENT, SUB DIVISION V, KENDRIYA BHAVAN, 2ND FLOOR, KOCHI-37, RESIDING AT NO.B-39, GPRA QUARTERS, KUNNUMPURAM, KAKKANAD-30, ERNAKULAM DISTRICT.

BY ADV. SRI.T.C.GOVINDA SWAMY

RESPONDENTS:

1. **THE PRESIDING OFFICER, LABOUR COURT, KANNUR.**
2. **SMT. REMA, "LOVE-DALE", PUTHUSSERY KUNDU, PURANATTUKARA P.O., TRICHUR.**
3. **SMT. MOLLY P.J., HIDAYATHU NAGAR, ULIYATHADKA P.O.,CHETTUMKUZHI, KASARAGOD DISTRICT.**
4. **THE TAHSILDAR (RR), KANAYANNUR TALUK, ERNAKULAM, COCHIN-682 011.**
5. **THE EXECUTIVE ENGINEER, CENTRAL PUBLIC WORKS DEPARTMENT,KENDRIYA BHAVAN, 2ND FLOOR, KOCHI-37.**
6. **SHRI E.HANEEFA, S/O. IBRAHIM, "REIMA MANZIL", VIDYA NAGAR P.O.,KASARAGOD DIST.**

BY GOVERNMENT PLEADER SRI.A.J.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN,J

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W.P.(C).No.35338 of 2007

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Dated this the 29th day of November, 2007

JUDGMENT

The petitioner challenges Ext.P1 award in I.D.No.42/97 and Ext.P2 order passed in C.P.No.16/2002 passed by the Labour Court, Kannur as also Ext.P3 notice of attachment of salary for recovery of amounts covered by Exts.P1 and P2. Ext.P1 is an award in I.D.No.42/97 dated 4.1.2000 published in the official gazette on 1.3.2000. Ext.P2 is an order dated 10.5.2005 . The petitioner's contention is that he was not aware of Exts.P1 and P2 at all. From Ext.P1 award it is clear that the notice had been served on the petitioner also. He was represented by an Advocate before the Labour Court in the Industrial Dispute. It is also stated in Ext.P1 award that after evidence of the workman the case was posted for evidence of the management on several occassions. On all occassions the management and their counsel were absent. The petitioner is one of the management in that industrial dispute as such petitioner cannot now contend that the petitioner was not aware of Ext.P1 award. In respect of Ext.P2 the contention of the petitioner is that he has not received any

notice in the C.P. In para 3 of Ext.P2 it is stated thus;

> "The notice addressed to the 2nd respondent Sri.K.V.Narayanan was returned unserved with endorsement "unclaimed". In spite of giving intimation as is evident from the postal article since the notice is not claimed by the 2nd respondent, the service was declared sufficient and he was declared exparte. Since the notice addressed to R1, Rama Narayanan was repeatedly returned with endorsement not in station publication was ordered. News paper publication was effected in Mathrubhumi daily of Thrissur Edition on 18.3.2005, but in spite of the same R1 did not appear. Accordingly R1 was also declared exparte. The matter was posted for exparte evidence by the petitioner."

In view of the same the petitioner cannot take the contention that he has not received any notice. The petitioner has not given any explanation what so ever for the long delay of seven years in challenging Ext.P1 award or for not challenging Ext.P2 within a reasonable period. Therefore the petitioner is guilty of unexplained delay and laches. In the above circumstances, I am not inclined to exercise my discretionary jurisdiction in favour of the petitioner. Accordingly the writ petition is dismissed.

S.SIRI JAGAN, JUDGE

dvs